



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

Writer's Direct Dial: (212) 416-8528

July 26, 2021

BY ECF

Honorable Gary R. Brown
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722-9014

Re: Fischman v. Murphy, et al., 21-cv-3111 (GRB)(ARL)

Dear Judge Brown:

This Office represents Justice Jerome C. Murphy of the Supreme Court of the State of New York, Nassau County, in this action brought by *pro se* Plaintiff Nina Fischman ("Plaintiff"). We write to respond briefly to Plaintiff's July 21, 2021 letter (ECF No. 15). To the extent that the Court's Individual Practice (I) required the parties to meet and confer on her extension request, Plaintiff did not contact this Office.

Even if this Court grants Plaintiff an extension of time to respond to the Order to Show Cause, dismissal remains appropriate for two reasons. First, Justice Murphy has recused himself from *Maidenbaum v. Cardis Enter. Int'l, B.V., et al*, Index No. 604610/2016 ("604610 Action"), as stated in his June 22, 2021 letter to the Court. ECF No. 7 at 1, 2. On that ground alone, Plaintiff could not obtain any prospective declaratory relief against Justice Murphy in the 606410 Action because he is no longer the presiding judge. Second, the case cited by Plaintiff, *MacPherson v. Town of Southampton*, 664 F. Supp. 2d 203, 212 (E.D.N.Y. 2009), *see* ECF No. 15 at 1, does not support her position. The Court ultimately dismissed the claims against the two justices of the Southampton Town Justice Court based on the *Younger* abstention, after acknowledging that the question of whether those plaintiffs had sufficiently alleged prospective declaratory relief was not going to be answered by the court. *Id.* at 212. Justice Murphy's June 22, 2021 presented multiple grounds for his dismissal from this action. (ECF No. 7).

Thank you for your continued consideration in this matter.

Respectfully submitted,
s/ Elizabeth A. Figueira
Assistant Attorney General